



September 27, 2000

Ms. Regina T. Grimes
Office of the General Counsel
Texas Department of Criminal Justice
P. O. Box 1401 Capitol Station
Austin, Texas 78711

OR2000-3720

Dear Ms. Grimes:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 139442.

The Texas Department of Criminal Justice (the "department") received a request for a copy of the contract between the department and Ameritech Security for the provision of monitoring equipment and related services, as well as information "as detailed as possible," about the department's Command Center. You explain that the department has released to the requestor the requested contract. You further explain that the additional information that is responsive to the request consists of the Command Center Training Agenda, which you have provided for our review.¹ You assert that this information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

¹The request is framed as a series of questions about the Command Center. We note that the Public Information Act applies only to information already in existence at the time of the request, and therefore does not require the department to prepare answers to questions. Open Records Decision No. 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to information which it holds. Open Records Decision No. 561 at 8 (1990). We thus rely upon your representation that the submitted Command Center Training Agenda is the only document of the department that contains information responsive to the request.

Section 552.108 of the Government Code, the "law enforcement" exception, provides in pertinent part:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(b)(1). Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You explain that the information at issue is essentially the operating manual for the department's Command Center, which "is a function of the Warrants Section of [the department's] Parole Division." Those parolees "whose recidivism would likely present a serious threat to public safety" are required to be on electronic monitoring. Ameritech Security provides the monitoring equipment and related services, and notifies the Command Center in those instances where a monitor "present[s] an exception." Command Center personnel are then responsible for responding appropriately, "one possible response being the issuance of a revocation warrant" for the individual on parole. In support of the applicability of the law enforcement exception, you state:

[The information] can be used to avoid the [electronic monitoring] system or to frustrate its operation. Information on monitor performance and characteristics could be used to finesse the detection of violations of supervision requirements. Simple information about the standard procedures for law enforcement communications could be used to confuse an enforcement process, e.g., appearing to cancel an arrest warrant.

Our review of the information at issue indicates that it contains detailed instructions pertaining to the internal operations of the Command Center. You further represent that the public release of the information "would interfere with [the department's] ability to operate the Command Center and the monitoring program without serious problems." Having carefully considered your arguments and reviewed the information at issue, we believe you have demonstrated that this information, if publicly released, could interfere with legitimate law enforcement interests of the department. Accordingly, we conclude that you may

withhold the submitted information pursuant to section 552.108(b)(1) of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Garbarino", written over the word "Sincerely,".

Michael Garbarino
Assistant Attorney General
Open Records Division

MG/pr

Ref: ID# 139442

Encl. Submitted documents

cc: Ms. LinMarie Garsee
P.O. Box 21361
Beaumont, Texas 77720-1361
(w/o enclosures)